IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SECOND DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 22164 of 2004

Between:

R. Uppalaiah S/o Sri R. Narayana
R/o H. No. 5-35/5, Buddha Nagar, Opp APSRTC., Uppal Bus Depot, Uppal,

Hyderabad

..... PETITIONER

AND

The APSRTC, rep by Depot Manager, Uppal APSRTC., Bus Depot, Uppal,
Hyderabad

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue a writ, order or orders more particularly one in the nature of Writ of Mandamus declaring the action of the respondent herein in issuing the order dt 27-07-2004 imposing penalty of recovery of an amount of Rs. 1,000/- towards damages caused to the bus and imposing a punishment of deferment of an increment for (1) year without cumulative effect is as arbitrary, illegal and violative of principles of natural justice and set-aside the same and consequently direct the respondent to not to recover the damages and not to defer the increment and pass such other orders.

Counsel for the Petitioner:MR.ANDAPALLI SANJEEV KUMAR

Counsel for the Respondent.: MR.V.T.M.PRASAD (S.C.FOR APSRTC)

The Court at the admission stage made the following Order:

THE HON'BLE SRI JUSTICE K.C.BHANU

WRIT PETITION NO.22164 OF 2004

ORDER:

This writ petition is filed to issue a Writ of Mandamus declaring the action of the respondent in issuing the order dated 27.07.2004 imposing penalty of recovery of an amount of Rs.1,000/- towards damages caused to the bus and imposing punishment of deferment of an increment for one year without cumulative effect as illegal and arbitrary.

Learned counsel for the petitioner, Mr. A. Sanjeev Kumar, contended that without there being any proposed punishment to be imposed on the petitioner in the show cause notice, the present punishment has been imposed and therefore, it is liable to be set aside.

Learned counsel appearing for the respondent contended that the alternative remedy to challenge the impugned proceedings is to file an appeal and agitate the same before the appellate authority.

Heard both sides and perused the material available on record.

The impugned order shows that as the petitioner failed to submit explanation to the show cause notice, the disciplinary authority came to the conclusion that the charges levelled against him were proved for which the penalty of recovering an amount of Rs.1,000/- in four instalments, besides deferment of increment for one year without cumulative effect was imposed.

No doubt, the show cause notice dated 14.06.2004 does not indicate as to the proposed punishment of deferment of one increment without cumulative effect and the same has to be considered by the appellate authority. As statutory appeal is provided against the orders of the disciplinary authority, the contentions that were raised by the learned counsel for the petitioner can as

well be raised before the appellate authority. Since the jurisdiction of the Depot Manager is not challenged in this writ petition, it is desirable to direct the petitioner to file an appeal before the appellate authority and on filing such appeal, the same shall be considered in accordance with law. However, the petitioner can raise all the issues before the appellate authority, which are available to him under law.

The writ petition is accordingly disposed of. No costs.

02.12.2004

usd

To

1. The Depot Manager, Uppal APSRTC Depot, Hyderabad
2. Two CD copies.